

REMARKS

In response to the Official Action dated March 23, 2004, claims 15, 19, 23, 29 and 32 have been amended in order to better define that which Applicants regard as the invention. Accordingly, claims 15-30 and 32-34 are presently pending in the instant application. Furthermore, in that the pending Official Action has been made final, in order to expedite prosecution of the instant application, filed concurrently herewith is a Request For Continued Examination. Accordingly, in that the foregoing amendments clearly distinguish the claimed invention from that set forth in the prior art of record, it is respectfully requested that the foregoing amendments be entered and fully considered by the Examiner and that the application be passed to issue.

Initially, referring to page 2 of the Official Action, Claims 15-30 and 32-34 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner is of the position that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner is of the position that "the outer wall has a substantially circumferentially contiguous inner surface" as recited in claims 15, 19, 23 (28) and 29 is not adequately supported by the disclosure. While Applicants respectfully disagree with the Examiner regarding this point in that the disclosure including the several figures clearly disclose this feature, each of claims 15, 19, 23 (28) and 29 have been amended to delete reference to the outer wall having a substantially circumferentially contiguous inner surface. Accordingly, It is respectfully submitted that this rejection has been overcome and that claims 15-30 and 32-34 are now in proper formal condition for allowance.

Further on page 2 of the Official Action, claims 15-30 and 32-34 have been rejected under 35 U.S.C. 112, Second paragraph, as failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner is of the position that the claims contain subject matter which was not adequately disclosed in the application. Specifically, the Examiner is of the position that it is unclear as to what is being claimed by the phrase "the outer wall has a substantially circumferentially contiguous inner surface" as recited in claims 15, 19, 23 (28) and 29. While Applicants, again, respectfully disagree with the Examiner regarding this point, in that the disclosure including the several figures clearly disclose this feature, each of claims 15, 19, 23 (28) and 29 have been amended to delete reference to the outer wall having a substantially circumferentially contiguous inner surface. Accordingly, It is respectfully submitted that this rejection has been overcome and that claims 15-30 and 32-34 are now in proper condition for allowance.

With reference to page 3 of the Office Action, claims 15, 16, 18-20, 22-26, 28-32 and 34 have again been rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,538,154 issued to Von Holdt in view of U.S. Patent No. 5,103,993 issued to Bingisser. This rejection is respectfully traversed in that the combination proposed by the Examiner neither discloses nor remotely suggests that which is presently set forth by Applicant's claimed invention.

Initially, with reference to independent claim 23 and those claims which depend therefrom, it is noted that this claim was previously amended to recite that the closure surface extends from a lowest portion of the inner wall. It is noted from the Examiner's previous discussion that the portion of the inner wall of Von Holdt while it does not extend from the lowest point on the inner wall, it does extend from a lowermost portion of the inner wall. Consequently, the Examiner has taken the position that the teachings of Von Holdt set forth a

lid wherein the closure surface extends from a lowermost portion of the wall which met the limitations of previous claim 23. Again, as can be seen from the foregoing amendments, claim 23 has been amended to recite that the closure surface extends from a lowest point of the inner wall. Consequently, it is respectfully submitted that independent claim 23 as well as those claims which depend therefrom clearly distinguishes over the combination proposed by the Examiner and are in proper condition for allowance.

With reference now to independent claims 15, 19, 23 and 29, as can be seen from the foregoing amendments, each of these claims have been amended to recite that the lid for a container includes a closure surface, a circumferential rim extending about a periphery of the closure surface with the circumferential rim including an outer wall, an inner wall and a transition wall extending therebetween. The container lid further includes a plurality of cutouts formed in at least the transition wall of the circumferential rim and a circumferential seal formed adjacent to the circumferential rim with the circumferential seal being positioned on the inner side wall between the cutouts and the closure surface wherein at least an inner surface of said outer wall is substantially planar in a region extending from said plurality of cut outs to an outer edge of said circumferential rim and at least a portion of the rim of the container is visible through each of the plurality of cutouts when the lid is positioned on the container. Again, it is noted that the claimed invention recites a circumferential rim extending about a periphery of the closure surface with the circumferential rim including an outer wall having an inner surface which is substantially planar in a region extending from the plurality of cut outs to an outer edge of the circumferential rim with at least a portion of the rim of the container being visible through each of the plurality of cutouts when the lid is positioned on the container. These features are clearly supported by the several figures, particularly figures 1 and 4-6, as well as Applicants' specification. Accordingly, no new

matter has been added.

In rejecting Applicant's claimed invention, the Examiner again relies on the teachings of Von Holdt as meeting all of the limitations set forth except the provision of an access opening formed in a closure surface. In light of this shortcoming, the Examiner again relies on the teachings of Bengisser which illustrates a container structure similar to that of Von Holt with an access port in a closure surface. While this may be the case, it is respectfully submitted that the patent to Von Holdt when taken alone or in view of Bengisser clearly fails to disclose or remotely suggest that which is presently set forth by Applicant's claimed invention.

The Examiner is relying on the teachings of Von Holdt as disclosing a plurality of openings extending around the periphery of a container lid as shown in the embodiment illustrated in Figures 9-11. However, as the Examiner can readily appreciate, the embodiment illustrated in Figures 9-11, as well as the additional embodiments set forth by Von Holdt, are directed to a large container and lid combination which is to be used in an industrial setting wherein it is desired to ensure that "the lid does not pop off of a container when it is dropped." Moreover, the industrial container and lid combination set forth by both Von Holdt and Bengisser include lids wherein the rim of the lid must be cut off or at least a portion of the lid ripped off prior to removal of the lid. That is, unlike the present invention, in both the Von Holdt and Bengisser references, the lids are intentionally, permanently secured to the container to prevent the lids from inadvertently popping off when dropped. While that would be beneficial in the fast food, disposable drink container would, it is not and can not be a reality. With consumer products such as that set forth by the applicant, it is necessary to manufacture the containers in a in an inexpensive manner and to manufacture lids in the manner set forth by Von Holdt or Bengisser, would be outside the realm of

possibility, in that such a lid and manufacturing process would be cost prohibitive. Accordingly, it is respectfully submitted, that one of ordinary skill in the art of designing and manufacturing lids for the consumer drink industry would not turn to the teachings of Von Holdt or Bengisser as suggested by the Examiner.

Furthermore, the combination proposed by the Examiner fails to meet those limitations presently set forth by Applicants' claimed invention. Specifically, as noted above, the claimed invention, as set forth in each of independent claims 15, 19, 23 and 29, recites a circumferential rim extending about a periphery of the closure surface with the circumferential rim including an outer wall having an inner surface which is substantially planar in a region extending from the plurality of cut outs to an outer edge of the circumferential rim with at least a portion of the rim of the container being visible through each of the plurality of cutouts when the lid is positioned on the container. With respect to the Von Holdt reference, the embodiment of Figures 9-11 includes apertures 76 which are provided, not for permitting visual inspection of the rim of the container upon placement of the lid on the container, but for allowing for the formation of the inwardly extending panels which protrude radially inwardly from an inner surface of the outer wall of the lid. Specifically, it is noted from column 5, lines 31-45, that the only reason Von Holdt includes the provision of the apertures 76 is to permit portions of the mold to form panels 22c without the presence of side apertures in the annular flange 14c. These panels which protrude radially inwardly from an inner surface of the outer wall of the lid become lodged under the rim of the container to prevent the lid from being removed from the container until such time as the lid is cut to remove the lid. Clearly, the lid set forth in the embodiment illustrated in figures 9-11 of the Von Holdt reference does not disclose a lid having a circumferential wall where an inner surface of the outer wall is substantially planar in a region extending from the plurality

of cut outs to an outer edge of the circumferential rim. The apertures of Von Holdt are provided strictly for the purpose of permitting the forming of the radially inwardly extending panels. Consequently, the inner surface of the outer wall of the lid of Von Holdt is not substantially planar in a region extending from the plurality of cut outs to an outer edge of the circumferential rim as set forth by Applicants' claimed invention. Furthermore, as noted hereinabove, one of ordinary skill in the art would not turn to the industrial lid/container combination art in that, while the lids are provided with a snug fit, they are not intended to be permanently secured to the container to prevent the lids from inadvertently popping off when dropped. Accordingly, one of ordinary skill in the art would not form the panels 22c as dictated by the Von Holdt disclosure and consequently would not be lead to the apertures 76 which are specifically provided for the formation of such panels. Accordingly, one of ordinary skill in the art would not turn to the teachings of Von Holdt as asserted by the Examiner, and even if one did, he would not reach that which is presently set forth by Applicants' claimed invention. Therefore, in that Applicant's claimed invention as set forth in independent claims 15, 19, 23 and 29 as well as those claims which depend therefrom recite a circumferential rim extending about a periphery of the closure surface with the circumferential rim including an outer wall having an inner surface which is substantially planar in a region extending from the plurality of cut outs to an outer edge of the circumferential rim thus eliminating the need for access in a molding process, one of ordinary skill in the art clearly would not turn to or rely on the teachings of Von Holdt in the manner suggested by the Examiner, these claims are now believed to be in proper condition for allowance.

With respect to the Response to Arguments set forth on page 4 of the Official Action, it should be noted that that portion of the several independent claims referred to by the

Examiner as representing new matter has been deleted from the claim and replace with language which is clearly supported by Applicants' specification and drawings and which is neither disclosed in nor rendered obvious in view of the teachings of Von Holdt, when taken alone or in combination with Bengisser for the reasons discussed in detail hereinabove.

Therefore, in view of the foregoing, it is respectfully requested that the objections and rejections of record be reconsidered and withdrawn by the Examiner, that claims 15-30 and 32-34 be allowed and that the application be passed to issued.

Should the Examiner believe a further conference would be of benefit in expediting the prosecution of the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,



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